

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

EMPIRICAL FOODS, INC.,

Plaintiff and Counter-
Defendant,

v.

PRIMUS BUILDERS, INC.,

Defendant, Counterclaimant,
and Third-Party Plaintiff,

v.

SWISSLOG LOGISTICS, INC.,

Third-Party Defendant.

8:19CV457

ORDER

This matter is before the Court on empirical foods, inc.’s (“empirical”) “Statement of Objections to Magistrate Judge’s Order” (Filing No. 66). empirical objects to the magistrate judge’s¹ Memorandum and Order (Filing No. 65) entered on August 27, 2020. The motion (Filing No. 47) was granted in part and denied in part.

First, empirical objects to the magistrate judge’s characterization of Primus Builders, Inc.’s (“Primus”) motion for preliminary injunction as a motion to preserve discovery and expedited discovery. The Court fully agrees the parties’ dispute was best characterized as a discovery dispute and finds the magistrate judge’s order was well-reasoned.

¹The Honorable Cheryl R. Zwart, United States Magistrate Judge for the District of Nebraska.

empirical next objects to the magistrate judge's analysis on the merits. On review of a magistrate judge's decision on a nondispositive matter, the Court may set aside any part of the magistrate judge's order that is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); *Ferguson v. United States*, 484 F.3d 1068, 1076 (8th Cir. 2007). "A finding is 'clearly erroneous' when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Chakales v. Comm'r*, 79 F.3d 726, 728 (8th Cir. 1996). "An order is contrary to the law 'if it fails to apply or misapplies relevant statutes, case law, or rules of procedure.'" *Parker v. United States*, No. 8:18CV123, 2019 WL 2076795, at *1 (D. Neb. May 10, 2019) (quoting *Knutson v. Blue Cross & Blue Shield of Minn.*, 254 F.R.D. 553, 556 (D. Minn. 2008)). In resolving discovery disputes, a magistrate judge is afforded broad discretion. *Bialas v. Greyhound Lines, Inc.*, 59 F.3d 759, 764 (8th Cir. 1995).

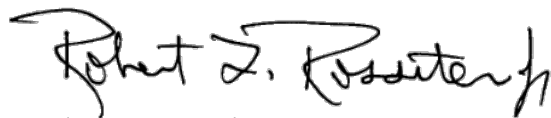
Having reviewed the record and empirical's objections, the Court concludes the magistrate judge's decision was not clearly erroneous or contrary to law. Accordingly,

IT IS ORDERED:

1. empirical foods, inc.'s objections (Filing No. 66) are overruled.
2. The Magistrate Judge's Memorandum and Order (Filing No. 65) is affirmed.

Dated this 21st day of October 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
United States District Judge